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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte ALBERT HENRICUS DE HEER, RUDOLF CORNELIUS
WILHELMUS DE HEER, CONSTANTIN NICKOLAYVICH
ZABRODINE, ALEXANDRE IGOREVITCH KVIATKEVITCH, and
ERIC OSCAR BLAETTLER

Appeal 2009-004325
Application 09/625,913
Technology Center 2100

Before JOSEPH L. DIXON, JAY P. LUCAS, and THU A. DANG,
Administrative Patent Judges.

DANG, *Administrative Patent Judge.*

DECISION ON APPEAL¹

¹ The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, or for filing a request for rehearing, as recited in 37 C.F.R. § 41.52, begins to run from the “MAIL DATE” (paper delivery mode) or the “NOTIFICATION DATE” (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

I. STATEMENT OF CASE

Appellants appeal the Examiner's final rejection of claims 1-39 under 35 U.S.C. § 134(a). We have jurisdiction under 35 U.S.C. § 6(b).

We affirm-in-part.

A. INVENTION

According to Appellants, the invention relates to capturing, storing, and distributing data suitable for use in electronic catalogs (Spec. 1, ll. 26-28).

B. ILLUSTRATIVE CLAIM

Claim 1 is exemplary and reproduced below:

1. A method of distributing data for use in an electronic catalog, comprising:

capturing product data for one or more products according to a data model, the data model having one or more classes, each one of the one or more classes being defined by one or more categories, each of the one or more categories being defined by an attribute group having one or more product attributes; and

storing the captured product data in a product data file, the product data in the product data file including both a manufacturer SKU that identifies each of the products, and at least one customer SKU that identifies each of the products for a customer requesting distribution of specified product data from the product data file for use in an electronic catalog, the manufacturer SKU being associated with at least one customer SKU, the customer SKU also being associated with the customer for which the product data is being stored for subsequent distribution to the customer, wherein the stored

product data is suitable for use by the customer in an electronic catalog, the customer being a manufacturer, retailer, or distributor of the products.

C. REJECTION

The prior art relied upon by the Examiner in rejecting the claims on appeal is:

Povilus	US 5,740,425	Apr. 14, 1998
Walker	US 6,249,772 B1	Jun. 19, 2001

Claims 1-39 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Povilus and Walker.

II. ISSUES

Has the Examiner erred in holding that Povilus in view of Walker would have taught or suggested “storing the captured product data in a product data file, the product data in the product data file including both a manufacturer SKU that identifies each of the products, and at least one customer SKU that identifies each of the products” (claim 1)?

III. FINDINGS OF FACT

The following Findings of Fact (FF) are shown by a preponderance of the evidence.

Povilus

1. Povilus discloses creating, maintaining, and publishing multiple renditions of electronic and printed, single and multi-manufacturer catalogs using a product database, wherein the product database

includes a listing of stock keeping units (SKUs), each SKU corresponding to a product or a component of a product (Abstract).

Walker

2. In Walker, a customer searches through electronic catalogs, and receives manufacturer established prices for selected products (col. 8, ll. 10-16), wherein purchase related information such as customer numbers, product identifiers, account numbers, account identifiers, and the like are communicated between terminal ends (col. 9, ll. 4-8).
3. Database tables are scanned to provide lists of retailers normally stocking products having particular traits selected and which are sold at identified prices as set and established by a manufacturer and stored in and displayed by a central controller (col. 9, l. 66 to col. 10, l. 6; Figs. 6A-D), wherein a database table displays information related to the products including the item number and stored ID number (Fig. 6A).

IV. ANALYSIS

Claims 1 and 31-33

As to claims 1 and 31-33, Appellants admit that “Povilus discloses a method in which a data structure is used to create a product database based on the class/group of products that includes SKUs of products” and that “Walker et al. is directed to pricing of products in commerce” (App. Br. 8). However, Appellants contend that “Povilus is silent with respect to storing product data including both a manufacturer SKU and a customer SKU” (App. Br. 13) and that “[t]he STORE ID NUMBER disclosed in Walker is a number that merely identifies a particular store so that available inventory at

the store can be indicated” (App. Br. 14). In particular, Appellants contend that “the stored disclosed STORE ID NUMBER is associated with the particular store that sells the product, and does not identify, or function to identify, a particular product that is being sold” (*id.*).

The Examiner finds that “Walker discloses a table ‘ITEM NUMBER’, ‘ITEM DESCRIPTION’ and ‘MANUFACTURER’ which corresponds to the manufacturer SKU and data description” and “the ‘STORE NUMBER’ corresponds to the customer SKU number since it’s a way of identifying a retailer” (Ans. 16).

Thus, an issue we address on appeal is whether Povilus in view of Walker would have suggested “storing the captured product data in a product data file, the product data in the product data file including both a manufacturer SKU that identifies each of the products, and at least one customer SKU that identifies each of the products” as required by claim 1.

We begin our analysis by giving the claims their broadest reasonable interpretation consistent with the Specification. *See In re Morris*, 127 F.3d 1048, 1054 (Fed. Cir. 1997).

Claim 1 does not place any limitation on what “customer SKU” means, includes, or represents, other than reciting that the “at least one” customer SKU “identifies each of the products.” We therefore interpret “customer SKU” as meaning any unit relating to a customer that identifies the products, i.e. its plain meaning.

Given the above claim constructions, we interpret “the product data in the product data file including both a manufacturer SKU that identifies each of the products, and at least one customer SKU that identifies each of the products” of claim 1 as reading on any data in the product data file that

includes a unit relating to the manufacturer and a unit relating to the customer that identify the products.

Povilus discloses a product database which includes a listing of stock keeping units (SKUs), each SKU corresponding to a product or a component of a product (FF 1). We find Povilus to disclose storing the captured product data in a product data file with the product data in the product data file including a manufacturer SKU that identifies each of the products.

Walker discloses product catalogs, wherein product information is stored (FF 2), and wherein the product information includes the item number and stored ID number (FF 3).

We agree with the Examiner's finding that Walker's ITEM NUMBER "corresponds to the manufacturer SKU" and also agree that "the 'STORE NUMBER' corresponds to the customer SKU number" (Ans. 16) since it identifies the product as having particular traits selected and which are sold at identified prices as set and established by the store having the STORE NUMBER. That is, we find that Povilus in view of Walker disclose data in a product data file that includes an ID number that identifies the product (ITEM NUMBER) relating to the manufacturer as well as an ID number (STORE ID NUMBER) that identifies the product (the product has particular traits and is available for the set price) relating to the customer (STORE).

Furthermore, Appellants argue that "[t]he cited Walker reference is not in the field of applicant's endeavor or to the primary Povilus reference" (App. Br. 8), and thus, there is no motivation to combine the references (App. Br. 7-13). However, since Walker discloses storing purchase related information, wherein purchase related information includes information

related to the products including the item number and stored ID number, we conclude that the combination of one known element (Povilus's storing of product related information) with another (Walker's product related information including item number and store ID number) would have yielded predictable results to one of ordinary skill in the art at the time of the invention. That is, we find that storing product related information including store ID number as taught by Walker in addition to Povilus's storage of product related information is no more than a simple arrangement of old elements with each performing the same function it had been known to perform, yielding no more than one would expect from such an arrangement. *See KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, 406 (2007).

The skilled artisan would "be able to fit the teachings of multiple patents together like pieces of a puzzle" since the skilled artisan is "a person of ordinary creativity, not an automaton." *Id.* at 420-21. Appellants have presented no evidence that combining Walker's product related information to the product related information of Povilus was "uniquely challenging or difficult for one of ordinary skill in the art" or "represented an unobvious step over the prior art." *See Leapfrog Enters., Inc. v. Fisher-Price, Inc.*, 485 F.3d 1157, 1162 (Fed. Cir. 2007) (citing *KSR*, 550 U.S. at 418-19).

Accordingly, we affirm the rejection of claim 1 and claims 31-33 falling therewith under 35 U.S.C. § 103(a).

Claims 2-12 and 34-36

As to claim 2, Appellants argue that "the Povilus reference does not disclose, teach or otherwise suggest, a customer product portfolio file that is distinct from the system product data file" and "electronically mapping the customer product portfolio file to the system product data file so as to

identify data that is not in the system product data file” (App. Br. 17-18). More particularly, Appellants argue that Povilus “does not teach indicating whether product data has been obtained and stored in the system product data file, and/or capturing the product data to be incorporated into the system product data file” (*id.*).

As noted by Appellants, the Examiner “notes that the disclosed ‘Definer’ [of Povilus] corresponds to the customer SKU” but “a ‘Definer’ is a word or phrase for a node or category likely to convey the identity of the product, and neither refers to a SKU, nor perform a function similar to a SKU” (App. Br. 18).

After reviewing the record on appeal, we agree with Appellants that the passages cited by the Examiner do not describe this claimed feature. That is, though the Examiner finds that Povilus discloses the claimed steps, we find that the cited passages is silent as to “electronically mapping the customer product portfolio file to the system product data file,” “capturing product data ... in the customer product portfolio file that is not stored in the system product data file,” and “adding the captured product data to the system product data file” as required by claim 2.

Accordingly, we reverse the rejection of claim 2, claims 34-36 standing therewith, and claims 3-12 depending therefrom under 35 U.S.C. § 103(a).

Claims 13-30 and 37-39

As for claims 13 and 37-39, Appellants repeat the argument that the references are not properly combinable (App. Br. 22 and 29), merely repeat the language of the claims (App. Br. 23 and 29), and argue that Povilus

“does not relate to the recited limitations” of claims 13 and 37 (App. Br. 23-24).

As discussed above, we agree with the Examiner that it would have been obvious to combine the teachings of Povilus and Walker. Furthermore, though the Examiner finds that Povilus and Walker disclose the cited limitations (Ans. 7-13), Appellants provide no convincing argument to dispute that the Examiner has correctly shown where the claimed elements appear in or are suggested by the teachings of Povilus and Walker. That is, merely repeating the claim language and contending that the reference does not relate is not a convincing argument. Accordingly, we affirm the rejection of claims 13 and 37-39 over Povilus and Walker.

As Appellants do not provide separate arguments for claims 14-20 and 30 from those of claim 13 other than to repeat that the cited portions of Povilus “do not relate to the limitation recited in the claims” (App. Br. 23-24), we also affirm the rejection of claims 14-20 and 30 over Povilus and Walker.

As to claim 21 and 29, Appellants repeat that the combined teachings “fail to teach receiving a customer product portfolio file with a manufacturer SKU, and a customer SKU” (App. Br. 24) and that “the cited portions of Povilus are not relevant to the recited limitations” (App. Br. 25). However, as discussed above, we agree with the Examiner that the applied references disclose this claimed limitation. Accordingly, we also affirm the rejection of claims 21 and 29. Since Appellants do not argue claims 22-25 separately from claim 21, claims 22-25 fall with claim 21.

As to claim 26, Appellants argue that “the cited prior art references do not allow searching for products based upon attributes of the products, for

example, speed of a processor, a size of memory, etc. in the example category of computers” (App. Br. 26). However, such contention is not commensurate in scope with the language of claim 26. That is, claim 26 does not recite any such “speed of a processor, a size of memory, etc.” Accordingly, we also affirm the rejection of claim 26 and claim 27 falling therewith.

As to claim 28, Appellants argue that, in the claimed invention, “the customer is not provided with all the information associated with the product” (App. Br. 27), and thus, the claimed invention “is in contrast to the Povilus reference that discloses the ability of a user to obtain information regarding only a portion of the manufacturer’s total offering of products” (App. Br. 28). However, such contention is also not commensurate in scope with the language of the claim. That is, claim 28 does not recite any such “not provided with all the information”. Accordingly, we also affirm the rejection of claim 28.

V. CONCLUSIONS

Appellants have shown the Examiner erred in holding claims 2-12 and 34-36 unpatentable but have not shown the Examiner erred in holding claims 1, 13-33, and 37-39 unpatentable over the teachings of Povilus in view of Walker.

VI. DECISIONS

The Examiner’s decision rejecting claims 1, 13-33 and 37-39 under 35 U.S.C. § 103(a) is affirmed.

The Examiner's decision rejecting claims 2-12 and 34-36 under 35 U.S.C. § 103(a) is reversed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED-IN-PART

peb

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